

REMARKS

No claims are amended, no claims are canceled, and no claims are added; as a result, claims 27-46 are now pending in this application.

In the Office Action Summary, checkbox 3 is marked as indicating "Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte* Quayle, 1935 C.D. 11, 453 O.G. 213." However, the Office Action Summary fails to indicate that any of the claims are allowed except for formal matters. In addition, the Office Action Summary at checkbox 6 indicates that claims 27-33 is/are rejected. Further, there is no indication in the Office Action Summary that this Office Action is Final. However, the Office Action on page 5 states that the Office Action is Final. Applicants have proceeded as if claims 27-33 are rejected, and as if the Office Action is Final. Applicants request clarification with regards the status of the Office Action and with regards to any claims the Examiner believes are in condition for allowance, and reserve the right to amend this response based on a correction or clarification of the Office Action and the Office Action Summary.

Further, because the Office Action Summary indicates that "prosecution as to the merits is closed," Applicants have submitted this response under 37 C.F.R. 1.116, and are requesting expedited examination. However, Applicants reserve the right to amend this response upon a correction or clarification from the Examiner as to the status of the Office Action.

Election/Restrictions

The Office Action on page 2 states that claims 34-46 are directed to an invention that is independent and distinct from the invention originally claims, and therefore has withdrawn claims 34-46 from further consideration. While Applicants do not necessarily agrees with these statements, Applicants elect claims 27-33 without traverse. Applicants reserve the right to reintroduce claims 34-46 in one or more later filed divisional applications.

§102 Rejection of the Claims

Claims 27-33 were rejected under 35 U.S.C. § 102(e) for anticipation by Hoyer *et al.* (U.S. 6,243,105 B1). Applicants do not admit that Hoyer *et al.* is prior art and reserve the right, as provided for under 37 C.F.R. 1.131, to "swear behind" Hoyer *et al.* Applicants choose at this time to merely distinguish Hoyer *et al.* Applicants respectfully traverse the rejection of claims 27-33.

Applicable Law

Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Dillon* 919 F.2d 688, 16 USPQ 2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, A[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*@ *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). The identical invention must be shown in as complete detail as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP ' 2131.

The Hoyer et al. reference fails to anticipate claims 27-33 because the Hoyer et al. references fails to disclose all of the elements included in claims 27-33.

As noted above, anticipation requires the disclosure in a single prior art reference of each element of the claims under consideration and further, the disclosure must be the identical invention and must be shown in as complete detail as is contained in the claim. The Hoyer *et al.* reference clearly fails to meet these requirements, and thus fails to anticipate claims 27-33.

By way of example and not by way of limitation, claim 27 recites, "executing the workflow, the workflow implementing business rules and associated with transactions of a call

center" [Emphasis Added]. Applicants direct attention to the specification of the present application on page 6 at lines 14-16, which states,

For the purposes of this description, the term "workflow" is intended to mean a sequence of steps that are performed to, at least partially, process a transaction. In other words, "workflow" is intended to designate a form of business rule processing.

In contrast, Hoyer *et al.* concerns monitoring performance of a web site, wherein Hoyer *et al.* at column 1, lines 25-35 states,

A performance monitor has two functions. First, the performance monitor should allow an administrator to monitor the real-time and historical performance of a web site. This includes the ability to track several different types of measurements such as hit rate and response time. Second, the performance should make it easy for the administrator to analyze the performance of a web site, especially if the performance has strayed beyond specified thresholds. Most of today's performance monitors only address the first role and provide little or no assistance to the administrator beyond simply displaying the performance data. [Emphasis Added].

Thus, Hoyer *et al.* discloses monitoring a web site to determine hit rates and response times. However, there is no disclosure in Hoyer *et al.* of a workflow as recited in claim 27. In addition, there is no disclosure Hoyer *et al.* of workflow processing business rules. Hoyer *et al.* merely discloses monitoring information related to a web site. Still further, there is no disclosure in Hoyer *et al.* of a call center. The Office Action on page 3 attempts to supply the element of a call center as recited in claim 27 by referring to Hoyer *et al.* at column 9, lines 23-28 which states,

The server side component 210 of the performance monitor 200 calls a cluster controller API 430 (get.sub.13 subdomain.sub.13 hosts) to obtain the available host table for the cluster being monitored and interacts with an SNMP MIB 235, 245, 255, 265 (FIG. 3) on each of the web servers 230, 240, 250, 260, respectively, to gather much of its data.

Clearly, a performance monitor calling a cluster controller API to obtain the available host table fails to disclose a call center as recited in claim 27.

In another example of elements recited in claim 27 and not disclosed by the Hoyer *et al.* reference, claim 27 recites, "displaying a workflow diagram on a display screen associated with the computer system; and displaying the execution statistics on the workflow diagram in real time, wherein the execution statistics are for various steps displayed in the workflow diagram, and wherein the execution statistics are selectively displayed by positioning a pointer over the display." [Emphasis Added].

The Office Action on page 3 relies on Fig. 8 of Hoyer *et al.* as disclosing many of these elements. However, Hoyer *et al.* at column 18, lines 27-38, describes Fig. 8 as follows:

Referring to FIGS. 7 and 8, when the administrator decides to investigate a peak value that exceeded its upper bound threshold as depicted in box 730, the administrator clicks on the value box 735 which is then highlighted. This action initiates a drill-down action and automatically switches the display from FIG. 7 which is a real-time server tab to the history tab depicted in FIG. 8. By clicking on box 725 the administrator can investigate a value below the low threshold. For purposes of explanation, only the upper bound threshold is explained below.

Upon clicking on box 735, the history view illustrated in FIG. 8 including the appropriate graph is displayed.

Thus, Fig. 8 of Hoyer *et al.* illustrates a graphical history of a value below the low threshold. However, the disclosure regarding Fig. 8 in Hoyer *et al.* fails to teach a display of a workflow diagram, as recited in claim 27. Since Hoyer *et al.* fails to teach workflows, Hoyer *et al.* also fails to teach workflow diagrams. Further, since Hoyer *et al.* fails to teach workflow and workflow diagrams, Hoyer *et al.* cannot teach any type of execution statistics on a workflow diagram in real time, or displaying execution statistics selectively by positioning a pointer over the display, as recited in claim 27.

For at least the reasons stated above, Hoyer *et al.* fails to meet the requirement of disclosing in a single prior art reference each of the elements of claim 27, and further, fails to disclose the identical invention as shown in as complete detail as is contained in claim 27.

Thus, the Office Action fails to state a *prima facie* case of anticipation with respect to claim 27, and so the 35 U.S.C. § 102(e) rejection of claim 27 cannot stand.

Claims 28-33 depend from claim 27, and therefore include all of the elements recited in claim 27. For at least the reasons argued above with regards to claim 27, Hoyer *et al.* fails to anticipate claims 28-33. Thus, the Office Action fails to state a *prima facie* case of anticipation with respect to claims 28-33, and so the 35 U.S.C. § 102(e) rejection of claims 28-33 cannot stand.

Applicants respectfully request withdrawal of the rejection and reconsideration and allowance of claims 27-33.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney 408-278-4042 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

GLEN KAZUMI OKITA ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

P.O. Box 2938

Minneapolis, MN 55402

408-705-2698

Date 11/21/05

By


Andre L. Marais

Reg. No. 48,095

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop RCE, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 21 day of November, 2005.

Dawn R. Shaw

Name

Dawn R. Shaw

Signature